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APPLICATION OF

**GTE COMMUNICATIONS CORPORATION
OF VIRGINIA**

CASE NO. PUC980080

**For a certificate of public convenience
and necessity to provide local exchange
telecommunications service**

HEARING EXAMINER'S RULING

September 30, 1998

On September 28, 1998, GTE Communications Corporation of Virginia ("GTE-CC" or the "Applicant") submitted three documents for in camera review by the Hearing Examiner. The documents are responsive to outstanding interrogatories submitted by Cox Virginia Telecom, Inc. ("Cox"). The outstanding Cox interrogatories request GTE-CC to:

30. Produce, and provide copies of, any and all reports, studies, analyses, business case studies, proposals, and similar documents, prepared by any person, including, without limitation, employees of GTE Corporation, GTE Service Corporation, GTE South, GTE Communications of Virginia or any of their affiliates and/or any outside consulting firms or advisors, regarding:
 - a. Formation of any business entity or affiliate to provide local exchange telephone service as a competitive or alternative carrier in the same region serviced by the ILEC affiliate; and
 - b. the benefits, advantages and disadvantages of operating an ILEC, and a competitive or alternative carrier, in the same territory.

GTE-CC maintains that these three documents constitute trade secrets whose disclosure to competitors, even under the terms of the Hearing Examiner's protective provisions would result in irreparable competitive harm.

Having reviewed the three documents, I conclude that they are relevant to the inquiry before the Commission in this case. However, I also recognize that this information is sought by a competitor of the Applicant, is commercially sensitive, and in the hands of the marketing personnel of a competitor could have an adverse effect on GTE Communications Corporation. In my opinion all three documents can, and should, be provided under more limited protective measures.

The first document is entitled "The Business Imperative for Non-Dominant Market Position and Entry." No date appears on this document; however, upon inspection, it is apparent that the document itself is not a current analysis. The sensitive nature of the analysis contained therein thus may be questionable. Yet, providing the Applicant with the

benefit of its assertion that the document should be maintained as confidential, I will compel its production only under the protective provisions of the September 14, 1998 Ruling with the additional provision that it need only be produced to counsel and their designated regulatory or legal personnel and outside expert witness, employed or retained by the parties and under the direction and control of counsel, to review, but not to copy. Moreover, disclosure shall not be made to any marketing personnel of a potential or actual competitor.

The remaining two documents appear related. One document, also undated, defines a business strategy which GTE Communications could effect nationally. The last document, dated February 12, 1998, appears to question whether the business strategies set forth in the earlier report are still valid considering changes in the industry.

Both the second and third documents are relevant, but contain sensitive information. Neither report contains a significant amount of detail. No specific implementation plans are detailed. Rather, general targets and strategies are defined. These documents identify business plans, and critique the advantages and problems with operation as a competitive local exchange company. Therefore, they are relevant to this case. I will compel their production, however the documents warrant having the additional level of protection which prohibits review by any individual involved or hereafter to be involved in marketing efforts. Moreover, there are portions of the reports which identify individuals interviewed by the research team. Those names, which appear on pages 4, 5 and 45 of the second document should be redacted from the copies prepared for production. It is not necessary for the parties to have access to those names. Moreover, portions of the reports critique the operations of GTE Communications' competitors including several parties participating in this proceeding. I believe those parties can critique their own strengths and weaknesses. Hence, certain additional portions of the reports may also be redacted from the copies produced in response to discovery. Specifically, the additional portions which may be redacted are:

The first document:

- Page 1, para. 8;
- Page 2, para. 1, 3; and
- Page 2, the sentence which begins at line 4 in para. 4.

In the second document:

- Page 6, line 7;
- Page 14, lines 5 and 6; and
- Pages 17 and 18.

In the third document:

- Pages 47-52.

Accordingly, **IT IS DIRECTED:**

1) That the three documents described above should be produced immediately subject to execution of a confidentiality agreement as provided by Hearing Examiner's Ruling dated September 14, 1998 and additional safeguards. Specifically, they shall be produced only to counsel and their designated regulatory or legal personnel and outside expert witness, employed or retained by the parties and under the direction and control of counsel, to review, but not to copy. Moreover, employees, officers or directors of a party, or consultants or experts retained by a party, who have been and who are currently involved in marketing shall not be provided access to the information in the above three documents. Individuals who become reviewing representatives under this paragraph may not engage or consult in any marketing activities for three years after reviewing the subject documents; and

2) That GTE-CC may redact all individual names and critiques of any of the party protestants from the copies produced as described above.

Deborah V. Ellenberg
Chief Hearing Examiner